



Editorial: Workers' comp(romise?)

By Bee Editorial Staff - (Published March 1, 2004)

By today, Gov. Arnold Schwarzenegger had wanted the California Legislature to fix the state's high-on-cost, low-on-benefits workers' compensation system. To back up the deadline, he has threatened to put his own reforms on the ballot come November.

The deadline was more artificial than real, for there is still some time before the final deadlines for any initiative. But the deal-making, if it is to happen, must start soon. And to be successful, it needs to focus more on wringing costs out of the system than punishing workers for the system's many flaws.

In that regard, workers' comp is a target-rich environment. There are the attorneys who have the motivation to exaggerate the worker's injury; the insurance companies that have gotten into the habit of denying valid claims; the businesses that have understated the danger of their occupations in hopes of lowering their premiums; and the providers (doctors and chiropractors) who have little incentive to practice cost-effective medicine.

These problems - and more - explain why the state has fewer injured workers than 10 years ago but more worker claims for compensation, higher insurance premiums for employers and lower actual benefits for the truly injured employees than other states.

With a few days left for a political deadline to lead to inspiration, where is the Legislature to look? Start with Insurance Commissioner John Garamendi's centrist, sensible list of targets and go from there.

Target No. 1: The whole system of divining a workers' permanent disability is too subjective. The American Medical Association, among other groups, has guidelines that emphasize scientific measurements of injury. Making this process more predictable and fair will end both sides' ability to game the system. To make it even fairer, require independent experts do this evaluation.

Target No. 2 is the 800-pound gorilla on the insurer's side, the State Compensation Insurance Fund. Designed by the Legislature 80-some years ago to be the insurer of last resort, it has become the insurer of first resort, covering about half of the state's workers. This is the one insurer that the Legislature can change. Garamendi suggests that the governor be given the authority to select two independent board members who (at least in theory) would manage to cut premiums by putting any legislative reforms into full effect, which would cause competitors to follow.

The artificial deadline has, practically speaking, come and gone. The real one is fast approaching. With an initiative, there is only one sure winner - the political consultants who get hired to try to pass it or kill it - and many of these same consultants are part of the effort to find a compromise. Beware of their conflict of interest. For them, gridlock as usual means big compensation.